

# Mental health in the workplace: What HR needs to know

Dealing with mental health in the workplace is becoming an urgent HR priority. The latest figures show that 19.1% of U.S. adults – that's over 47 million people – are battling mental illness. Chances are, 1 out of about every 5 of your employees is depressed, anxious or even suicidal. Managing those employees and helping them find the treatment they need provides unique challenges.

Fortunately, there are tried and true methods for dealing with mental health issues in the workplace. An employee with depression can get the help she needs and become the productive worker she was before depression struck. Likewise, there are ways to manage other common mental health challenges while keeping an eye on other business priorities. Just make sure your program takes into account laws protecting workers disabled by mental health issues. These laws include the Americans with Disabilities Act (ADA) and the Family and Medical Leave Act (FMLA). Also, consider the Occupational Safety and Health Administration (OSHA) workplace safety rules plus state laws.

## Mental health problems and the ADA

Under the ADA, employees with depression, anxiety, bipolar disorder, and post-traumatic stress disorder are typically considered disabled. These four conditions are the most likely mental health conditions employers will encounter, sometimes in combination. An employee with depression, for example, may also suffer from anxiety and/or PTSD.

The most likely combination of mental health issues in the workplace is depression and anxiety. One often leads to the other and vice versa. The clinical definitions of depression and anxiety involve complex assessments of behavior and symptoms best left to professional assessment. But the workplace signs are hard to miss. A depressed employee may be unable to sleep or sleep too much. She may no longer enjoy life or her job. He may be unable to concentrate or be quick to emotional outbursts. If these symptoms persist for 6 months or more, the diagnosis may be major depression. But the impact on performance may come long before an official diagnosis.

How you as the employer handle that worker *must* comply with the ADA. Under the ADA, employers cannot discriminate against disabled workers. But they also cannot assume that a depressed employee cannot do his job or rely on stereotypes about mental health. That's regarding the employee as disabled, which the ADA bans. Therefore, employers have to be careful about attempts to identify depressed, anxious or mentally ill workers even with good intentions.

Employers should focus on performance if the employee has not volunteered that he or she is depressed or anxious. You can, however, provide general information to *all* your employees about mental health issues. These efforts should include:

- Publicizing any employee assistance programs you have, including providing everyone with contact information;

- Training employees on workplace and other stress, coping with common mental health issues and guidance on health insurance coverage;
- Issuing a general invitation to employees to request ADA reasonable accommodations or FMLA leave if desired; and
- Clarifying that you are ready to work with employees to accommodate absences for treatment, modified schedules or other reasonable accommodations.

If an employee requests a reasonable accommodation for depression or other mental health issues, immediately begin the interactive accommodations process. Assume the employee is disabled while the process gets underway. Get medical information to confirm that this is an employee with depression or other mental health issues. You should also explain FMLA rights, if applicable. More on that later.

The ADA considers a wide range of accommodations to be reasonable. For example, a depressed employee may need a schedule shift to attend talk therapy sessions or medication checks. If insomnia is an issue, it may be reasonable to allow later start times. Here are some other tips on designing reasonable accommodations for a depressed employee:

- If you modify starting times, be sure to also require core hours in the office. While the employee may need to arrive late due to insomnia, having core hours helps him stay focused.
- If the depressed employee asks to work from home, consider the ramifications. It's possible being isolated may actually worsen depression. Get input from treatment providers to see if telecommuting is a good idea.
- Consider breaking down projects into smaller goals to prevent the depressed employee from feeling hopeless or overwhelmed. Then offer positive reinforcement for deadlines that are met.

## **The FMLA and mental health**

Employees dealing with mental health issues in the workplace or elsewhere may be suffering from an FMLA serious health condition. Eligible employees can take up to 12 weeks of unpaid leave for treatment or when the condition flares up. FMLA leave is also available intermittently. For example, a depressed employee may periodically request later arrival when his symptoms are most severe.

Make sure the employee understands he must get a certification from his medical provider explaining the need for intermittent leave. The doctor should estimate how often intermittent leave will be necessary and for how long. If you have call-off rules, explain that these need to be followed. Have him call in as for any other absence, but report that the late arrival or absence is intermittent FMLA leave.

It's also possible the employee will want to take a block of time off. That can be essential if he needs to be hospitalized after a suicide attempt or other mental health crisis. When the employee is ready to return, you can request a return to work certificate. Caution: if the depressed employee can't get clearance, the ADA may still apply. The worker may be disabled and entitled to more leave as a reasonable accommodation even if out of other leave.

## **Suicide at work**

The Centers for Disease Control (CDC) just released the latest figures on suicide in the United States. The figures are truly shocking. First, the overall suicide rate has been increasing steadily, with a 40% increase among working-age people in less than two decades. The CDC data reveals that about 38,000 people in their prime working years killed themselves during the study year. Some of these suicides represent employees with depression who killed themselves at work.

The CDC also reported that some industries are more vulnerable to employee suicide. In fact, blue-collar

workers are at the highest risk for self-harm. Industries with the most suicides are mining, oilfield, construction, and auto-repair. Overall, the construction industry saw the most deaths by suicide for both men and women.

How many employees killed themselves at work? The Bureau of Labor Statistics (BLS), says a record number of workers chose work to end their lives in 2018. That year, 304 workplace suicides took place – an 11 percent increase in one year and the highest level since records have been kept.

The CDC also identified work-related risk factors that it plans to further study. These include:

- Doing low-skilled work;
- Having lower education;
- Having lower absolute and relative socioeconomic status;
- Having work-related access to lethal means; and
- Experiencing job stress, including poor supervisory and colleague support, low job control and high job insecurity.

The CDC suggests employers develop tactics to both prevent and deal with the aftermath of workplace suicide. These are effective employee assistance and workplace wellness programs, mental health screenings and reducing the stigma around mental health problems. Other effective approaches rely on:

- Training HR personnel to identify potentially suicidal workers, especially if your industry is high risk. Employees who have attempted suicide in the past are at risk. So are workers with accelerating poor performance and increased absenteeism who suggest they won't be around much longer. Other tell-tale signs are giving away possessions once important to them.
- Take all suicidal ideations seriously. If a worker says he wishes he were dead, believe him. Contact the [Suicide Prevention Lifeline](#) for help. If you believe suicide is imminent, call 911.

## **Workplace safety, OSHA and mental health in the workplace**

The Occupations Safety and Health Act (OSHA Act) requires employers to take steps to create safe workplaces. Employers who fail to do so may be fined. Typical enforcement actions focus on physical safety such as adequate fall prevention for construction workers or pathogen prevention for hospitals. OSHA specifically excluded mental illness from its list of work-related injuries even though work stress may trigger symptoms.

If you have worked with a depressed employee, but he or she isn't improving, you may be considering termination. Before you make that decision, review your ADA accommodations and FMLA obligations. Check that you have followed your own poor performance policies. If you have a performance improvement plan, use it. A depressed employee must be treated as you would any other employee subjected to termination. Otherwise, you may lose a disability lawsuit over allegations you fired the employee because of a disability.

Terminating *any* employee can be tricky. He or she may become angry, argumentative or even violent – a danger to himself or others. OSHA does require that employers work to prevent workplace violence and the harm that flows from it. That includes a page devoted to workplace suicide prevention. It can be accessed [here](#).